Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1977
No. 77-954

DR. ARTHUR GRESEN,

Petitioner,

vs.

DR. HAROLD FEIKES, DR. ROBERT WILLIAMS, DR. T. W. CHRISTIANSEN, TOM ARMOUR, THEADORE JACOBS, JOHN SCHALLEY, MAURICE PEARLMAN, NATHAN ADELSON, ALAN MILLER, DAVID BRANDSNESS, LESLIE SOPER, C. J. ABDO, and SUNRISE HOSPITAL and all members of the surgical committee set forth as JOHN DOES 1 to 10,

Respondents.

Brief in Opposition to Petition for Writ of Certiorari to the Supreme Court of the State of Nevada.

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The Highest Court in the State of Nevada Has Not Entered a Final Judgment.

There exists no "final" judgment from the Nevada Supreme Court on which to petition for Writ of Certiorari, 28 USC 1257. The Nevada Supreme Court dismissed petitioner's appeal "without prejudice" to the rights of the parties following exhaustion of administrative remedies holding that "judicial intervention at this juncture is premature." (Pet. A 9-10.)

A reading of the petition demonstrates that petitioner feels that the Nevada District Court erred in granting summary judgment, based on insufficient state or federal involvement to be viewed as state action, and that the Nevada Supreme Court erred in dismissing the appeal and holding judicial intervention premature prior to exhaustion of administrative remedies. There is no claim that the Nevada Court cannot or will not properly decide all questions presented when petitioner seeks judicial intervention following exhaustion of administrative remedies, if then necessary.

Petitioner has given no authority for an exception to the "final judgment" requirement in a case of this nature.

There Is No Substantial Federal Question Presented.

Petitioner's conclusionary statements merely raise issues of fact as a basis for certiorari rather than the required substantial federal question. The legal principles establishing state action for the purpose of the process are well settled by this Court. *Burton v. Wilmington Parking Authority,* 365 U.S. 715 (1961); *Jackson v. Metropolitan Edison Co.,* 419 U.S. 345, 357 (1974); *Moose Lodge No. 107 v. Irvis,* 407 U.S. 169, 172 (1972).

Petitioner claims ". . . the Nevada Supreme Court . . . has decided the case in a manner inconsistent with the recognized decisions of this Court." (Pet. 5.) What those recognized decisions are, petitioner

does not say. Petitioner has cited no cases in support of the petition but cites only cases restraining federal court intervention into state matters and the limits on such restraint. Also cited is a civil rights case as an exception to the "final judgment" requirement which has no application in the instant case.

Conclusion.

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

JON R. COLLINS,
Attorney for Respondents.

LIONEL SAWYER & COLLINS,
Of Counsel.